

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.166/04

Thursday this the 26th day of August 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

P.K.Lambodaran Nair, IPS (Rtd.),
Shyladri, T.C.1/2081 (3),
Kumarapuram, Medical College PO,
Thiruvananthapuram.

Applicant

(By Advocate Mr.V.G.Sankaran)

Versus

1. Union of India represented by
its Secretary,
Ministry of Health & Family Welfare,
Department of Health, Nirman Bhavan,
New Delhi - 110 011.
2. Director General, Health Services,
Directorate General of Health Services,
Nirman Bhavan, New Delhi - 110 011.
3. Chief Medical Officer (M.O.),
NF 59, Directorate General of Health Services,
Nirman Bhavan, New Delhi - 110 011.
4. The Joint Director (C.G.H.S.),
O/o. the Joint Director,
Central Government Health Scheme,
Kesavadasapuram.

Respondents

(By Advocate Mr.P.J.Philip,ACGSC)

This application having been heard on 26th August 2004 the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant a retired member of the Kerala cadre of Indian Police Service has filed this application aggrieved by the rejection of his claim for reimbursement of expenses incurred for his treatment for cardiac disease on the ground that the treatment was taken in private unrecognised hospital and that the treatment was taken beyond the CGHS area and ex-post-facto sanction sought for taking the treatment in Amritha Institute of

Medical Science and Research Centre, Kochi (AIMS in short) was denied. The orders Annexure A-6 and Annexure A-11 issued in that regard have been challenged in this application. The facts necessary for disposal of this application can be briefly stated as follows :-

2. The applicant was admitted in the Medical College Hospital, Thiruvananthapuram on 6.3.2002 as he suffered a sudden chest pain. Echo Cardiogram And TMT test were done and the applicant was advised by the Joint Director, CGHS, Thiruvananthapuram to have Stress Thallium test done. By an application made to the Joint Director, CGHS, Thiruvananthapuram sanction was sought to have the Stress Thallium test done in AIMS Kochi which was pending with the Joint Director. In the meanwhile, the applicant got the test done from AIMS, Kochi and having found that there was a 100% block, in terms of advise of specialists Angioplasty was performed on the applicant on 20.5.2002. After the treatment the applicant by Annexure A-2 dated 24.6.2002 sought reimbursement of a sum of Rs.79,013.56 incurred by him attaching therewith all the bills. A certificate issued by Dr.K.K.Haridas, Chairman, Department of Cardiology, AIMS & Research Centre certifying that the applicant was under his treatment for Coronary Artery Disease from 29.4.2002 up to 23.5.2002 was also attached. The applicant submitted an application for medical reimbursement claiming Rs.79,013.56 (Annexure A-5) on 24.6.2002. The claim was rejected by the 4th respondent by the impugned order Annexure A-6 on the grounds that the treatment was taken in a hospital of choice without any permission from CGHS authorities, that treatment was taken in a private unrecognised hospital and that the pensioner beneficiary

has taken the treatment beyond CGHS area. To point out the circumstances under which the applicant underwent the treatment the applicant submitted Annexure A-9 representation to the 2nd respondent. The prayer for ex-post-facto sanction was rejected by Annexure A-11 order which reads thus :

I am directed to refer to your letter No.AC/13/2002/CGHS/TVM/29. dated 6.1.2003 on the subject mentioned above and to say that request of Shri.P.K.Lambodran Nair for ex-post-facto approval for taking treatment in AIMS (Kochi) has been considered in consultation with Ministry of Health & Family Welfare but the same has not been acceded to. He may be informed accordingly.

3. The applicant has alleged in the application that the reasons for rejection are untenable because as is seen from the letter of the Government of India, Ministry of Health & Family Welfare dated 19.12.2001 (Annexure A-7) the AIMS Kochi has been recognised by the State Government for Cardiology and Cardiovascular Surgery and therefore it was not necessary for special sanction by the Government of India and as per letter dated 28.3.2000 of the Government of India, Ministry of Health & Family Welfare (Annexure A-8) it is permissible to have the treatment outside the city of his residence if the facility is not available in any of the hospital there. The applicant, therefore, seeks to set aside the impugned orders and for a direction to the respondents to allow the medical reimbursement claim submitted by the applicant as per Annexure A-5 application under Central Government Health Scheme (CGHS) as expeditiously as possible.

4. The respondents seek to resist the claim of the applicant on the self same ground as mentioned in Annexure A-6 order and the rejection of prayer for ex-post-facto sanction for the reason

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that prior permission was not sought, however, the existence of Annexure A-7 and Annexure A-8 are admitted by the respondents. Yet they contend that the applicant will not be entitled to the reimbursement of the medical claim as the treatment was obtained from AIMS Kochi which is not recognised.

5. When the application came up for hearing Shri.V.G.Sankaran appeared for the applicant but none appeared for the respondents. However, we have very carefully gone through the entire pleadings and materials including the reply statement and the annexures on record and have heard the learned counsel of the applicant. The two grounds on which the claim of the applicant for medical reimbursement has been turned down are : (1) treatment of choice without any permission from CGHS authorities and treatment was taken in a private un-recognised hospital. (2) the pensioner beneficiary has taken the treatment beyond to CGHS area, as per existing CGHS rules. The pensioner beneficiary and his family members who have taken the treatment outside CGHS covered area are not entitled to reimburse the medical expenses. Annexure A-7 is a letter of the Government of India, Ministry of Health & Family Welfare addressed to Shri.A.P.S.Krishnan, Vice President, Amrita Institute of Medical Sciences and Research Centre, Kochi which reads as follows :

Sub : Recognition of Amrita Institute of Medical Sciences, Edapally, Kochi, Kerala under CS(MA) Rules, 1944.

Sir,

I am directed to refer to your application dated 25.9.2000 forwarded by the Director of Health Services, Kerala on the subject mentioned above and to say that the same has been got examined in consultation with Dte.GHS. It is observed that your Institute has already been recognised by the State Government of Kerala for



Cardiology and Cardiovascular Surgery. Under O.M.No.S.14025/7/2000-MS dated 28.3.2000 (copy enclosed) of this Ministry the Central Government employees and members of their families have been permitted to avail of medical facilities in any of the Central Government hospitals and hospitals recognised by the State Governments/CGHS/CS(MA) Rules, 1944. There is, therefore, no need to separately recognise your Institute under CS(MA) Rules, 1944, for the purpose of medical treatment of Central Government employees covered under CS(MA) Rules in respect of the procedures for which it has already been recognised by Government of Kerala. The schedule of charges for the purpose of the procedure/investigation will be as per the rates proposed by the Institute except for that of the Stress Thallium Test. In respect of this Test the Institute is requested to kindly agree to the ceiling limit prescribed under CS(MA) Rules, i.e., Rs.6000/- failing which this Test will not be included in the list of procedures approved under CS(MA) Rules, 1944.

In so far as the request of the Institute for recognition for general purposes is concerned, the matter is still under consideration and the decision taken will be intimated in due course.

6. It is evident from the above quoted letter that the AIMS, Kochi has been recognised by the Government of Kerala for reimbursement to its employees of expenses incurred for treatment in Cardiology and Cardiovascular Surgery and that no special sanction or recognition is required of the Central Government for extending the same to the Central Government employees. The contention of the respondents that the applicant's claim for medical reimbursement is not admissible as the treatment has been taken from AIMS is obviously incorrect and without reference to what is contained in the Ministry's letter (Annexure A-7). The contention of the respondents that the treatment has been taken beyond the CGHS area of Thiruvananthapuram is also not tenable in view of what is contained in Ministry's letter dated 28.3.2000 (Annexure A-8). The paragraph two of which reads thus:

If the treatment for a particular disease/procedure is available in the same city where the Govt. servant is employed, he may be permitted to avail of the medical services in any other city of his choice but in such cases, he will not be eligible for sanction of TA/DA. In case the treatment for a particular disease/procedure is not available at the same station, the beneficiary will be eligible for sanction of TA of his entitled class for taking treatment in a different city.

7. That initially the applicant was constrained to approach the AIMS, Kochi for Stress Thallium Test because such facility was not available in any of the recognised hospital in Thiruvananthapuram has been testified by the Joint Director, CGHS in his letter dated 6.1.2003 addressed to the DGHS. Under these circumstances the contention of the respondents that the applicant is not entitled to have the expenses incurred by him for his treatment for cardiac disease reimbursed has absolutely no justification. The impugned order Annexure A-11 by which the request of the applicant for ex-post-facto sanction has been rejected is totally without application of mind and it does not contain any reason and the same is liable to be set aside.

8. In the light of the above discussion we find that the impugned orders are liable to be ^{Set} aside and the respondents have to be directed to honour the claim of the applicant for medical reimbursement to the extent admissible. The application, therefore, is disposed of setting aside Annexure A-6 and Annexure A-11 and directing the respondents to allow the claim for reimbursement of medical expenses put forth by the applicant in Annexure A-5 application to the extent admissible as per the rules and to make available to the applicant the same within a period of six weeks from the date of receipt of a copy of this order. No order as to costs.

(Dated the 26th day of August 2004)

H.P.DAS
ADMINISTRATIVE MEMBER

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A.V.HARIDASAN
VICE CHAIRMAN